

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION**

In Re:

Gwendolyn Thorb Barbour

Case No. 10-06330-8-JRL

Chapter 13

Social Security No.: xxx-xx-5694

Address: 105 River Oak Dr., Clayton, NC 27520

Debtor

MOTION TO ALLOW MORTGAGE PAYMENTS OUTSIDE OF CHAPTER 13 PLAN

NOW COMES THE DEBTOR, by her attorney undersigned, who shows unto the Court as follows:

1. That a voluntary petition for relief under Chapter 13 of Title 11 of the United States Code was filed on August 9, 2010.
2. This motion by the Debtor is brought pursuant to this court's ruling in In re: Bowman, entered on July 29, 2010.
3. Under the Bowman case, the court allowed the debtor in that case to pay the mortgage payment directly to the lender because the mortgage was current and the delay of disbursement associated with the administrative arrearage would create an unavoidable default which would adversely affect the non-filing co-obligor spouse's credit.
4. Debtor and her non-filing co-obligor spouse are jointly liable on a home mortgage note in favor of Chase Home Finance secured by a senior deed of trust on their principal residence located at 105 River Oak Drive, Clayton, NC 27520. Chase Home Finance has been scheduled as a secured creditor in this case.
5. Debtor's non-filing spouse makes the ongoing monthly mortgage payments out of his own personal earnings.
6. Debtor, Chase Home Finance, nor the Bankruptcy Estate will derive any benefit from the mortgage being paid as a conduit payment through the Chapter 13 plan.
7. Debtor and her non-filing spouse have provided mortgage statements that show a record of timely payments and no defaults since September 1, 2009.
8. Including the mortgage payment in the plan has a substantial likelihood of adversely

affecting the non-filing spouse's credit rating due to the delay of disbursement associated with a post-petition administrative arrearage claim.

9. On September 9, 2010, the Trustee reviewed the mortgage loan payment history records from Chase provided to the Trustee by Debtor and agrees that the Debtor and her co-obligor spouse have been paid in a timely manner. Accordingly, the Trustee consents to the Debtor being exempted from the terms of the Court's Administrative Order entered November 5, 2009, thereby allowing the Debtor and her spouse to make all post-petition mortgage payments to Chase under the loan secured by their residence directly to Chase. The Trustee, however, reserves the right to seek amendment of the Debtor's plan to require that such payments be made through the plan should the Debtor and her spouse become delinquent in making such payments during the pendency of the Debtor's case.

WHEREFORE, the Debtor requests that the Court grant this motion, that the Debtor be excepted from the Administrative Order of November 5, 2009 and allowed to pay the ongoing mortgage obligation to Chase Home Finance outside of the Chapter 13 plan, and that the Court grant such other and further relief as the Court may deem proper.

Dated: September 13, 2010

LAW OFFICES OF JOHN T. ORCUTT, P.C.

/s John T. Orcutt

John T. Orcutt, NC Bar # 10212
6616 Six Forks Rd., Suite 203
Raleigh, N.C. 27615
(919) 847-9750

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FOR THE EASTERN DISTRICT OF NORTH CAROLINA
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In Re:

Gwendolyn Thorb Barbour

Case No. 10-06330-8-JRL

Chapter 13

Soc.Sec.No.: xxx-xx-5694

Mailing Address: 105 River Oak Dr., Clayton, NC 27520

Debtor

NOTICE OF MOTION TO ALLOW MORTGAGE PAYMENTS OUTSIDE OF CHAPTER 13 PLAN

The Debtor has filed a motion with the court to pay her mortgage directly to Chase Home Finance, LLC, rather than as a conduit payment pursuant to the court's Administrative Order dated November 5, 2009.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to grant the relief sought in this motion, or if you want the court to consider your views on the motion, then on or before **THURSDAY, OCTOBER 7, 2010**, unless otherwise ordered, you or your attorney must file with the court, pursuant to Local Rule 9013-1 and 9014-1, a written response, an answer explaining your position, and a request for hearing at: Clerk, U.S. Bankruptcy Court, P.O. Box 1441, Raleigh, NC 27602-1441.

If you mail your response to the court for filing, you must mail it early enough so that court will **receive** it on or before the date stated above. **You must also mail a copy to the following:**

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| Law Offices of John T. Orcutt Attorney 6616-203 Six Forks Rd. Raleigh, NC 27615 | John F. Logan, Chapter 13 Trustee PO Box 61039 Raleigh, NC 27661-1039 |
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If a response and a request for hearing is filed in writing on or before the deadline set above, a hearing will be conducted on the motion at a date, time and place to be later set and all parties will be notified accordingly. If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in this motion and may enter an order granting that relief.

Dated: 9/13/2010

LAW OFFICES OF JOHN T. ORCUTT, P.C.

/s John T. Orcutt

John T. Orcutt

Attorney for the Debtor

N.C. State Bar No. 10212

6616-203 Six Forks Road

Raleigh, N.C. 27615

CERTIFICATE OF SERVICE

I, Don Davis, of the Law Offices of John T. Orcutt, P.C., certify, under penalty of perjury, that I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age, and that on September 13, 2010, I served copies of the foregoing Motion To Pay Mortgage Outside Chapter 13 Plan and Notice of Motion to Allow Mortgage Payments Outside of Chapter 13 plan by automatic electronic noticing pursuant to Local Rule 5005-4(9)(b), or by depositing a true and correct copy into the regular, first-class, United States mail, postage prepaid, and properly addressed upon the following parties:

Chapter 13 Trustee
PO Box 61039
Raleigh, NC 27661-1039

Chase Home Finance, LLC
3415 Vision Dr.
Columbus, OH 43219

Mrs. Gwendolyn Thorb Barbour
105 River Oak Dr.
Clayton, NC 27520

/s Don Davis

Don Davis

